

**BEFORE
THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
DOCKET NOS. 2010-14 --19-C**

IN RE:)
)
BellSouth Telecommunications,)
Incorporated d/b/a AT&T Southeast)
d/b/a AT&T South Carolina v.)
Affordable Phone Services, Incorporated)
d/b/a High Tech Communications)
Docket No. 2010-14-C)
)
BellSouth Telecommunications,)
Incorporated d/b/a AT&T Southeast)
d/b/a AT&T South Carolina v. Dialtone)
& More Incorporated)
Docket No. 2010-15-C)
)
BellSouth Telecommunications,)
Incorporated d/b/a AT&T Southeast)
d/b/a AT&T South Carolina v.)
Tennessee Telephone Service, LLC)
d/b/a Freedom Communications USA,)
LLC)
Docket No. 2010-16-C)
)
BellSouth Telecommunications,)
Incorporated d/b/a AT&T Southeast)
d/b/a AT&T South Carolina v. OneTone)
Telecom, Incorporated)
Docket No. 2010-17-C)
)
BellSouth Telecommunications,)
Incorporated d/b/a AT&T Southeast)
d/b/a AT&T South Carolina v. dPi)
Teleconnect, LLC)
Docket No. 2010-18-C)
)
BellSouth Telecommunications,)
Incorporated d/b/a AT&T Southeast)
d/b/a AT&T South Carolina v. Image)
Access, Incorporated d/b/a New Phone)
Docket No. 2010-19-C)

**RESELLERS' RETURN TO
AT&T'S FILING**

Affordable Phone Services, Incorporated d/b/a High Tech Communications, Daltone & More, Incorporated, and OneTone Telecom, Incorporated, respectfully submit this Return to BellSouth Telecommunication, LLC d/b/a AT&T South Carolina's ("AT&T") Filing with the Public Service Commission of South Carolina (the "Commission") on April 5, 2012.

Commission Rule 103-829 "Motions" does not allow AT&T's Filing to be considered. That provision provides that

Motions, except those made during hearings, will be reduced to writing and filed with the Chief Clerk at least ten (10) days prior to the commencement of a hearing.

AT&T's Filing was neither made during the hearing in this matter, nor filed prior to the commencement of the hearing. Therefore, AT&T's Filing is not properly before the Commission.

Secondly, S.C. Code § 58-9-1180 does not provide the Commission the jurisdiction urged by AT&T. Simply put, the Commission cannot "rescind" or "amend" something that doesn't exist pursuant to that statute. The Commission's November 9, 2011 Directive ("Directive") is neither an "order" nor a "decision" of the Commission, and therefore the Directive cannot be covered by that statute. (This is also why Section 58-9-1200 does not yet apply in these proceedings). The best evidence of the fact that the Directive is not a Commission order or decision is that it has not required anyone—including AT&T—to take any action based upon it (i.e., comply with its mandate or seek further review). Therefore, there is nothing to be "rescinded" or "amended" in this case.

Accordingly, AT&T is flat wrong when it claims that certain language in S.C. Code § 58-9-1180 gives the Commission the authority to "amend" or "rescind" the

Directive. These proceedings are clearly “provided for in Section 58-9-1200.” Section 58-9-1200 has not yet been *triggered* in this case, (again, because there is no order or decision), but that statute will undoubtedly be triggered *after* an Order is issued. Indeed, AT&T’s previous submissions to the Commission seeking clarification that the Directive did not trigger Section 58-9-1200 *at that point in time* demonstrate that very fact, as does its admission in its Filing that “§58-9-1200 does not *yet* apply in these proceedings”. (Emphasis added). As a result, the December 7, 2011 Commission Directive cited in Footnote 3 of AT&T’s Filing does not support AT&T’s contention, but refutes it.

Additionally, AT&T selectively quotes from S.C. Code § 58-9-1180, and leaves out language in that statutory provision which requires that even in appropriate circumstances (which do not exist here), the Commission would be required to provide “notice and an opportunity to be heard” prior to rescinding or amending an Order. Resellers submit that it would not be an efficient use of resources to reconvene these matters again before the Commission prior to the issuance of an Order, but indeed S.C. Code § 58-9-1180 explicitly requires that notice and opportunity to be heard in the event the Commission intended to amend or rescind the Directive.

Finally, AT&T offers no valid reason at all for the Commission to “change its mind” before the issuance of an Order. The cited rulings from other jurisdictions reach a statutorily impermissible result and are not binding on this Commission, and AT&T does not claim that they require the Commission to revisit the Directive.

The Commission must deny the relief sought in AT&T's Filing.

Respectfully submitted this 20th day of April, 2012.

s / John J. Pringle, Jr.
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served by electronic mail service on the following this 20th day of April, 2012:

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s / John J. Pringle, Jr.
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